

MAIL STOP
AMENDMENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: G. Crawford

Attorney Docket No.: GBHS126617

Application No.: 10/646,089

Art Unit: 3752 / Confirmation No: 9601

Filed: August 22, 2003

Examiner: J.S. Hogan

Title: HAZING A BIRD REPELLENT SOLUTION

DECLARATION OF GARY L. CRAWFORD

Seattle, Washington 98101

November 7, 2006

TO THE COMMISSIONER FOR PATENTS:

Gary L. Crawford declares as follows:

1. I am the sole inventor identified in the above-identified patent application.
2. For approximately 25 years, I have designed and developed fog and haze machines for the entertainment industry. Fog and haze machines that I have developed have been used in movies and stage productions.
3. In early 2000, I was approached by Bruce Vergote, the person identified as an inventor in U.S. Patent Application No. 10/641,857, regarding the possible use of one of the fog and haze machines that I had previously designed and developed to dispense a bird repellent chemical, specifically, a solution of methyl anthranilate, as a fog or haze in a particle size of 10 microns or less. It is my understanding that, prior to contacting me, Bruce Vergote had spent several years attempting to use other companies' machines to dispense this chemical and that his attempts had been unsuccessful. It is also my understanding that the machines from the other companies previously used by Bruce Vergote could not produce small enough methyl anthranilate particles to stay air-borne and not settle. It is also my understanding that Bruce had not created, invented, designed or developed, or was knowledgeable of the design or development of any machine suitable for acceptably dispensing methyl anthranilate particles.

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The potential use of methyl anthranilate in a particle size of 10 microns or less as an acceptable bird repellent was well known prior to my being approached by Bruce Vergote. The problem was that an acceptable dispensing mechanism did not exist and Bruce had no idea how to design and develop such a machine.

4. In response to Bruce Vergote's request, using a solution of methyl anthranilate provided to me by Bruce Vergote, I attempted to use one of my previously developed fog and haze machines, namely, a Hazemax™ machine, to dispense a haze of methyl anthranilate. The purpose of the test was to determine if the Hazemax™ machine could dispense a haze of methyl anthranilate in a particle size of 10 microns or less. The requested original test was unsuccessful. Among other factors, the corrosive nature of methyl anthranilate destroyed some components of the Hazemax™ test machine.

5. At Bruce Vergote's request, and with the understanding that he would purchase and market successful machines, I successfully designed and developed a new haze machine suitable for dispensing a haze of methyl anthranilate in a particle size of 10 microns or less. Unfortunately, Bruce Vergote did not live up to his commitment. I was not paid for my design and development efforts.

6. Subsequent to my successful efforts to design and develop a new type of haze machine suitable for dispensing a haze of methyl anthranilate in a particle size of 10 microns or less, I filed U.S. Provisional Patent Application No. 60/405,633, which describes my development efforts and whose filing date is claimed as a priority date in the above-identified patent application. I drafted U.S. Provisional Patent Application No. 60/405,633 in its entirety. I received no input from Bruce Vergote. Based on his comments to me, I believe that Bruce Vergote does not understand the technical content of U.S. Provisional Patent Application No. 60/405,633.

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7. After filing U.S. Provisional Patent Application No. 60/405,633, Bruce Vergote demanded that he be added as a contributor due to his stated intention of paying for my design and development efforts and marketing the newly designed and developed machine. Bruce Vergote declared he would not pay for my design and development efforts and expenses if he was not added as a contributor to the invention described in U.S. Provisional Patent Application No. 60/405,633. Without seeking the advice of a patent attorney regarding inventor or contributor requirements, I acceded to Bruce Vergote's demand and requested the firm that filed U.S. Provisional Patent Application No. 60/405,633 to add Bruce Vergote as a contributor.

8. Subsequent to Bruce Vergote being added as a contributor to U.S. Provisional Patent Application No. 60/405,633, I discussed inventor requirements with a patent attorney and went over the facts leading up to the design and development of the new haze machine I had designed and developed for dispensing a haze of methyl anthranilate. I was advised that the threshold question in determining contribution to an invention is who conceived the invention defined by the claims of a patent application. I was also advised that the one who suggests an idea or a result to be accomplished, rather than the means of accomplishing the idea or result, is not an inventor.

9. Based on the advice I received from the patent attorney, I believe that my prior instructions to add Bruce Vergote as a contributor to U.S. Provisional Patent Application No. 60/405,633 were in error. As explained above, all Bruce Vergote contributed was a need for a machine to dispense a fog or haze of a particular type of chemical (methyl anthranilate) in a particle size of 10 microns or less. Bruce Vergote did not contribute to any inventions described in U.S. Provisional Patent Application No. 60/405,633, much less the invention claimed in the above-identified application. In this regard, I have carefully reviewed the present claims of the above-identified patent application, a clean copy of which is attached. Bruce Vergote did not

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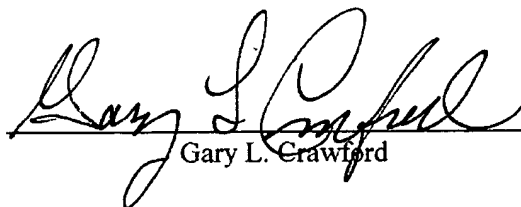
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conceive of any of the steps or elements of these claims. All of the claim steps or elements were conceived by me.

10. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements are made with the knowledge that willful, false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of United States Code, and that such willful false statements may jeopardize the validity of the above-identified patent application or any patent that issues thereon.

Date:

11-7-06


Gary L. Crawford

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